IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

WP(C).No. 11503 of 2007(T)

OS.40/2000 of ADDL.SUB COURT,KOLLAM

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PETITIONERS:

1. K.N.SIVARAMA PILLAI, S/O NEELAKANTA PILLAI, AGED 78, PROPRIETOR MS/.NATIONAL AGENCIES, PALLIMUKKU, KUNDARA, RESIDING AT SHYAMA BHAVAN, ARUNOOTIMANGALAM, MANGAD, KOLLAM.

2. S.SYAMA PRASAD, S/O SIVARAMA PILLAI, DO. DO.

3. S/JAYALAKSHMI, DO. DO.

4. S.HARIPRASAD, DO. DO.

5. S.AJITHPRASAD, DO. DO. RESIDING AT KRISHNA VILASOM, NEAR BHARATHY COMPUTERS, VANCHIYOOR, THIRUVANANTHAPURAM.

6. SUJITH PRASAD, DO. DO.

BY ADV. SRI.D.GANESH KUMAR

RESPONDENTS:

1. THE CATHOLIC SYRIAN BANK LTD., KILIKOLLOOR BRANCH REP. BY ITS BRANCH MANAGER, KILIKOLLOOR, KOLLAM.

2. THE CHAIRMAN, THE CATHOLIC SYRIAN BANK LTD., HEAD OFFICE, NEAR ST.MARY'S COLLEGE, THRISSUR-20.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P. Balachandran, J.

W.P.(C)No. 11503 of 2007 T

JUDGMENT

Heard counsel for the petitioners.

2. The petitioners are defendants In O.S.No. 40/00 on the file of the Sub Court, Kollam. The first petitioner is stated to be the father and other petitioners are stated to be his children. The claim in the suit was for an amount of Rs.2,24,058/- with interest thereon at the rate of 17.8% per annum from the date of suit till realisation with costs and charged on the scheduled properties. The said suit was decreed on admission on 29.1.2003. Not a pie is paid towards the decree debt by the petitioners till this date.

3. The case of the petitioners is that they are ready to arrive at a settlement and therefore, they have preferred a petition before the District Legal Services Authority, Kollam and pursuant to the discussions at the Adalath, Exhibit P5 petition was filed by the fifth petitioner before the decree

holder Bank and that has not been favourably considered and that for settlement of proclamation the case is posted immediately after re-opening of courts.

4. The prayer in this writ petition is for an order directing the first respondent to consider Exhibit P5 petition submitted by the fifth petitioner and also to file a statement of the amounts due to them by stating the legal interest they are entitled within a time limit fixed by this Court and in the meanwhile, for stay of execution proceedings pending before the Sub Court, Kollam. The petitioners, who have not paid a pie till this date, pursuant to the decree passed four years back, are not entitled to get any of the reliefs prayed for. The attempt of the petitioners is only to drag on the payment of the decree debt, as evidenced by their conduct hitherto. Dragging on the matter not paying any amount to the decree holder despite the decree passed on consent on 29.1.2003 shows that the contentions raised are

without any bona fides and are attempts made by them to drag on payment of the decree debt.

5. In the result, I order that in case the petitioners deposit the entire decree amount of Rs.2,24,058/- along with interest thereon at 6% per annum from the date of suit till deposit of the entire amount as also the cost of the suit before the execution court, in relation to the balance amount, the matter may be placed before the Adalath and the District Legal Services Authority may make an attempt to arrive at a settlement. It is made clear that in the event of the petitioners not depositing the entire amount with interest as aforesaid, the District Legal Services Authority need not take up the matter for consideration.

This writ petition is disposed of with the above directions.

2nd April, 2007 (K.P.Balachandran, Judge)

tkv